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REFERENCE TITLE: environmental protections; budget reconciliation

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
First Regular Session  
2005

## **HB 2735**

Introduced by  
Representatives Robson, Pearce, Tully, Weiers J: Mason, Pierce (with  
permission of committee on Rules)

AN ACT

AMENDING SECTIONS 45-2471, 49-542.05, 49-543 AND 49-551, ARIZONA REVISED  
STATUTES; MAKING FUND TRANSFERS; RELATING TO ENVIRONMENTAL BUDGET  
RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 45-2471, Arizona Revised Statutes, is amended to  
3 read:

4 45-2471. Interstate water banking agreements; annual reports  
5 and updates

6 A. The authority may negotiate and enter into interstate water banking  
7 agreements with appropriately authorized agencies in California and Nevada,  
8 if all of the following apply:

9 1. The provisions of section 45-2427, subsection C have been met.

10 2. The director and at least two other voting members of the  
11 commission vote in agreement to enter into an interstate WATER banking  
12 agreement.

13 3. The authority ~~shall~~ DOES not enter into agreements with California  
14 and Nevada agencies that require the authority to reduce Arizona diversions  
15 from the Colorado river more than a total of one hundred thousand acre-feet  
16 of water in any one year.

17 4. No interstate WATER banking agreement ~~may be~~ IS inconsistent with  
18 the decree.

19 B. In each interstate water banking agreement, the authority may agree  
20 to store Colorado river water in Arizona so that the stored water may be used  
21 in place of Arizona diversions from the Colorado river in years in which the  
22 California or Nevada agency requests water from the authority.

23 C. In each interstate water banking agreement, the California or  
24 Nevada agency shall agree to pay to the authority all costs that are or will  
25 be incurred by the authority in storing and recovering Colorado river water  
26 pursuant to the interstate banking agreement. The costs include all of the  
27 following:

28 1. The cost of acquiring Colorado river water.

29 2. The cost of delivering that Colorado river water through the  
30 central Arizona project to a storage facility, including fees for the  
31 operation, maintenance, pumping energy and capital costs of the central  
32 Arizona project as established by CAWCD.

33 3. Amounts equivalent to taxes ordinarily paid by CAWCD subcontractors  
34 and their customers to pay for the repayment, operation and maintenance costs  
35 of the central Arizona project, to the extent those equivalent amounts are  
36 not collected by paragraph 8 of this subsection.

37 4. The cost of storing that Colorado river water.

38 5. The cost of constructing, operating and maintaining a storage  
39 facility to the extent that facility stores water for the California or  
40 Nevada agency.

41 6. The cost of recovering the stored water and delivering it to  
42 Colorado river water users in this state to use in place of Colorado river  
43 water that would otherwise be used.

7. A fee equivalent to the approximate amount of administrative, legal and technical expenses incurred by the authority in storing water for the California or Nevada agency, recovering that stored water and making an equivalent amount of Colorado river water available to the California or Nevada agency.

8. Any fee paid in lieu of taxes pursuant to section 48-3715, subsection B by the authority in acquiring the water to be stored.

D. In each water banking agreement, the authority shall agree that in years in which the California or Nevada agency requests recovery of water stored in Arizona, the authority shall cause a decrease in Arizona diversions from the Colorado river by the amount of water requested for recovery by the California or Nevada agency, thus creating unused entitlement for delivery to that agency by the United States secretary of the interior pursuant to article ii(b)(6) of the decree. These WATER banking agreements may provide that during years when the secretary of the interior has declared a shortage on the Colorado river, no decrease in Arizona diversions shall be required.

E. Each interstate WATER banking agreement shall specify that if the California or Nevada agency breaches the terms of the agreement, the authority shall cease creating unused entitlement for that entity until the breach is cured.

F. THE ARIZONA WATER BANKING AUTHORITY SHALL PRESENT ANNUAL REPORTS TO THE JOINT LEGISLATIVE BUDGET COMMITTEE NO LATER THAN SEPTEMBER 30 OF EACH YEAR ON THE EXPENDITURE PLAN FOR MONIES RECEIVED PURSUANT TO EACH AGREEMENT FOR INTERSTATE WATER BANKING FOR THE CURRENT FISCAL YEAR. EACH REPORT SHALL INCLUDE THE AMOUNT OF AND SPECIFIC USE AND JUSTIFICATION FOR:

1. ALL RECEIPTS OR EXPENDITURES NOT INCLUDED IN ANY PREVIOUS REPORT.
2. ALL PLANNED EXPENDITURES TO BANK OR PROVIDE WATER FOR ANOTHER STATE AND THE AMOUNT OF WATER PURCHASED.
3. ALL PLANNED EXPENDITURES TO BANK OR PROVIDE WATER FOR THIS STATE AND THE AMOUNT OF WATER PURCHASED.
4. ALL OTHER PLANNED EXPENDITURES.
5. ACTUAL RECEIPTS AND EXPENDITURES FROM THE PRIOR FISCAL YEAR.
6. ALL REVENUES PROJECTED TO BE RECEIVED THROUGH THE AGREEMENT IN BOTH THE CURRENT AND FUTURE FISCAL YEARS.

G. THE ARIZONA WATER BANKING AUTHORITY SHALL PROVIDE TO THE JOINT LEGISLATIVE BUDGET COMMITTEE AN UPDATE TO EACH REPORT PURSUANT TO SUBSECTION F OF THIS SECTION NO LATER THAN MARCH 30 OF EACH YEAR THAT INCLUDES ANY CHANGES TO THE REPORT, INCLUDING JUSTIFICATION FOR THE CHANGES.

Sec. 2. Section 49-542.05, Arizona Revised Statutes, is amended to read:

49-542.05. Alternative fuel vehicles

A. Except for a vehicle fueled by hydrogen, the following apply:

1. Each original equipment manufactured alternative fuel vehicle that is registered in or used to commute into area A or area B pursuant to section 49-542, subsection A is subject to the emissions inspection requirements prescribed in this article including subsection C of this section.

2. Each alternative fuel vehicle that is not an original equipment manufactured alternative fuel vehicle and that is registered in or used to commute into area A or area B pursuant to section 49-542, subsection A is subject to the emissions inspection requirements prescribed in this article ~~except that the provisions of section 49-543, subsection B do not apply.~~

B. Except for a vehicle fueled by hydrogen, for each vehicle that is registered in or used to commute into area A or area B as prescribed by section 49-542, subsection A and that is either an original equipment manufactured alternative fuel vehicle or an alternative fuel vehicle that is not an original equipment manufactured alternative fuel vehicle, the vehicle shall be tested before the vehicle is registered in this state as an alternative fuel vehicle both while operating on gasoline and while operating on alternative fuel, if applicable. In the fourth registration year and in subsequent years, the vehicle shall be tested both while operating on gasoline and while operating on alternative fuel, if applicable, pursuant to the requirements of section 49-542.

C. For all emissions inspections before the fourth registration year after purchase or lease of a new original equipment manufactured alternative fuel vehicle, the owner of the vehicle shall do one of the following:

1. Have the vehicle inspected pursuant to this article.

2. Pay a twenty-five dollar fee in area A and a nine dollar fee in area B. The owner shall pay this fee together with the registration fee for the vehicle to the registering officer. The registering officer shall deposit, pursuant to sections 35-146 and 35-147, these fees in the air quality fund established by section 49-551. The registering officer may enter into an intergovernmental agreement with another department of this state to collect and deposit the fee. An owner who chooses to have an emissions inspection pursuant to this article is not required to pay the fee prescribed in this paragraph for that emissions test cycle.

D. The registration renewal notice required for the second and third registration year of a new original equipment manufactured alternative fuel vehicle shall include a notice to the vehicle owner that even though an emissions inspection test is not required pursuant to subsection B of this section the owner may choose to have an emissions inspection because of vehicle emissions performance warranty limitations on emissions components of the vehicle.

E. The department of environmental quality shall compile and maintain data regarding the results of emissions inspections of all alternative fuel vehicles pursuant to this article.

1           Sec. 3. Section 49-543, Arizona Revised Statutes, is amended to read:

2           49-543. Emissions inspection costs; disposition; fleet  
 3                 inspection; certificates

4           A. The director shall fix, regulate and alter in accordance with this  
 5 section the fees required to be paid for the full costs of the vehicle  
 6 emissions inspection program pursuant to this article including  
 7 administration, implementation and enforcement.

8           ~~B. Except as provided in section 49-542.05, for all the emissions~~  
 9 ~~inspections prior to the sixth registration year after purchase or lease of a~~  
 10 ~~new vehicle, the owner of the vehicle shall do one of the following:~~

11           ~~1. Have the vehicle inspected pursuant to this article.~~

12           ~~2. Pay a twenty five dollar fee in area A and a nine dollar fee in~~  
 13 ~~area B. The owner shall pay this fee together with the registration fee for~~  
 14 ~~the vehicle to the registering officer. The registering officer shall~~  
 15 ~~deposit, pursuant to sections 35-146 and 35-147, these fees in the air~~  
 16 ~~quality fund established by section 49-551. The registering officer may~~  
 17 ~~enter into an intergovernmental agreement with another department of this~~  
 18 ~~state to collect and deposit the fee. An owner who chooses to have an~~  
 19 ~~emissions inspection pursuant to this article is not required to pay the fee~~  
 20 ~~prescribed in this paragraph for that emissions test cycle.~~

21           ~~C.~~ B. Except as provided in section 49-542.05, the registration  
 22 renewal notice required for the second through fifth registration year of a  
 23 new vehicle shall include a notice to the vehicle owner that even though an  
 24 emissions inspection test is not required pursuant to section 49-542,  
 25 subsection J, paragraph 2, subdivision (d) the owner may choose to have an  
 26 emissions inspection because of vehicle emissions performance warranty  
 27 limitations on emissions components of the vehicle.

28           ~~D.~~ C. The fees charged for official emissions inspection shall be  
 29 uniform as applied to each class of vehicle which shall be defined by the  
 30 director. Except for fees collected by the director pursuant to section  
 31 49-546, the inspection fees required to be paid pursuant to this article may  
 32 be collected with the registration fee by the registering officer at the time  
 33 and place of motor vehicle registration pursuant to title 28, chapter 7,  
 34 article 5 and deposited, pursuant to sections 35-146 and 35-147, in the  
 35 emissions inspection fund in accordance with the rules adopted by the  
 36 director or may be collected by the independent contractor at the time of  
 37 inspection by means of an approved check or cash.

38           ~~E.~~ D. Any person, except a person who has been issued a certificate  
 39 of waiver pursuant to section 49-542, subsection L, whose vehicle has been  
 40 inspected at an official emissions inspection station ~~shall~~, if the vehicle  
 41 was not found to comply with the minimum standards, SHALL have the vehicle  
 42 repaired, including recommended repair or replacement of emissions control  
 43 devices as a result of tampering, and have the right within sixty consecutive  
 44 calendar days but not thereafter to return the vehicle for one reinspection  
 45 without charge. The department may provide for additional reinspections  
 46 without charge. A vehicle shall not be deemed to pass a reinspection unless

1 the tampering discovered during the tampering inspection is repaired with new  
2 or reconditioned emissions control devices.

3 ~~F.~~ E. The department shall issue certificates of inspection to owners  
4 of fleet emissions inspection stations. Each certificate shall be validated  
5 by the fleet emissions inspection stations in a manner required by the  
6 director at the time that each owner's fleet vehicle has been inspected or  
7 has passed inspection. The validated certificate of inspection shall  
8 indicate at the time of registration that the owner's fleet vehicle has been  
9 inspected and that the vehicle has passed inspection.

10 ~~G.~~ F. The director shall fix an emissions inspection fee before  
11 inspection certificates may be issued to the owner of any fleet emissions  
12 inspection station. Such fee shall be uniform for each inspection  
13 certificate issued and shall be based upon ~~ON~~ the director's estimated costs  
14 to the state of administering and enforcing ~~the provisions of this article as~~  
15 they apply to fleet emissions inspection stations and the vehicles inspected  
16 in fleet emissions inspection stations. The director shall deposit, pursuant  
17 to sections 35-146 and 35-147, all such monies collected by the director  
18 pursuant to this article in the emissions inspection fund.

19 Sec. 4. Section 49-551, Arizona Revised Statutes, is amended to read:

20 49-551. Air quality fee; air quality fund; purpose

21 A. Every person who is required to register a motor vehicle in this  
22 state pursuant to section 28-2153 shall pay, in addition to the registration  
23 fee, an annual air quality fee at the time of vehicle registration of one  
24 dollar fifty cents. Unless and until the United States environmental  
25 protection agency grants a waiver for diesel fuel pursuant to section  
26 211(c)(4) of the clean air act, every person who is required to register a  
27 diesel powered motor vehicle in this state with a declared gross weight as  
28 defined in section 28-5431 of more than eight thousand five hundred pounds  
29 and every person who is subject to an apportioned fee for diesel powered  
30 motor vehicles collected pursuant to title 28, chapter 7, articles 7 and 8  
31 shall pay an additional apportioned diesel fee of ten dollars.

32 B. The registering officer shall collect the fees and immediately  
33 deposit, pursuant to sections 35-146 and 35-147, the air quality fees in the  
34 air quality fund established pursuant to subsection C of this section and  
35 shall deposit the diesel fees in the voluntary vehicle repair and retrofit  
36 program fund established pursuant to section 49-474.03.

37 C. An air quality fund is established consisting of monies received  
38 pursuant to this section, section 49-542.05, ~~section 49-543~~, gifts, grants  
39 and donations, and monies appropriated by the legislature. The department of  
40 environmental quality shall administer the fund. Monies in the fund are  
41 exempt from the provisions of section 35-190 relating to the lapsing of  
42 appropriations. Interest earned on monies in the fund shall be credited to  
43 the fund. ~~Monies in the fund that are received pursuant to section 49-543~~  
44 ~~shall be placed in a separate account and shall only be used for those~~  
45 ~~purposes that are prescribed in subsection F of this section or section~~

~~49-551.01. Except as provided in subsection F of this section, Monies in the air quality fund shall be used, subject to legislative appropriation, for:~~

~~1. Air quality research, experiments and programs conducted by or for the department for the purpose of bringing area A or area B into or maintaining area A or area B in attainment status, improving air quality in areas of this state outside area A or area B and reducing emissions of particulate matter, carbon monoxide, oxides of nitrogen, volatile organic compounds and hazardous air pollutants throughout the state.~~

~~2. Monitoring visible air pollution and developing and implementing programs to reduce emissions of pollutants that contribute to visible air pollution in counties with a population of four hundred thousand persons or more.~~

~~3. Developing and adopting rules in compliance with sections 49-426.03, 49-426.04, 49-426.05 and 49-426.06.~~

~~D. The department shall transfer four hundred thousand dollars from the air quality fund to the department of administration for the purposes prescribed by section 49-588 in eight installments in each of the first eight months of a fiscal year.~~

~~E. This section does not apply to an electrically powered golf cart or an electrically powered vehicle.~~

~~F. The disbursement of monies for air quality control programs and measures from the monies received pursuant to section 49-543 shall be pursuant to this subsection. The monies shall be used for programs and measures in counties that contain a portion of area A or area B. The department may use up to five per cent of the annual revenues for the costs of administration. The balance shall be used for funding the following:~~

~~1. A voluntary lawn and garden equipment emissions reduction program established pursuant to section 49-474.02. Five per cent of the monies shall be used for this purpose.~~

~~2. A voluntary vehicle repair and retrofit program established pursuant to section 49-474.03. Fifteen per cent of the monies shall be used for this purpose.~~

~~3. The diesel vehicle low emissions incentive grant program established by section 49-551.01. Thirty per cent of the monies shall be used for this purpose. Grants for fuels shall not exceed the incremental cost differential from conventional diesel fuel, excluding taxes.~~

~~4. The voluntary accelerated purchase of tier 2 and tier 3 equipment described in section 49-558. Grant funding shall not exceed one-half of the incremental cost difference between the initial capital cost of tier 2 and tier 3 equipment and conventional diesel equipment. Ten per cent of the monies shall be used for this purpose.~~

~~5. Fifteen per cent for making grants to fund the following activities:~~

~~(a) A travel reduction ordinance program.~~

~~(b) A voluntary no drive day program.~~

1       ~~6. Any other measures or programs that have been evaluated by the~~  
2       ~~department. The evaluation shall include at least a review and assessment of~~  
3       ~~the health and environmental impacts of the measures or programs. The~~  
4       ~~department may evaluate measures or programs adopted by other jurisdictions.~~  
5       ~~Twenty five per cent of the monies shall be used for this purpose. The~~  
6       ~~department may make grants for the purposes of this paragraph.~~

7       ~~7. If the amount of monies authorized pursuant to paragraphs 1 through~~  
8       ~~6 of this subsection have not been expended or encumbered in any fiscal year,~~  
9       ~~the amount shall be used for funding any of the purposes described in this~~  
10      ~~subsection.~~

11      ~~G. The annual report of the department shall include a section on the~~  
12      ~~grants awarded pursuant to subsection F of this section.~~

13      Sec. 5. Underground storage tank assurance account; transfer of  
14              monies; uses

15      Notwithstanding any other law, the administrative cap established in  
16      section 49-1051, subsection B, paragraphs 2 and 3, Arizona Revised Statutes,  
17      is suspended for fiscal year 2005-2006 and the department of environmental  
18      quality may transfer \$6,031,000 from the assurance account of the underground  
19      storage tank revolving fund for administrative costs of the underground  
20      storage tank leak prevention program and funding for the used oil program.

21      Sec. 6. Off-highway vehicle recreation fund; use

22      Notwithstanding section 28-1176, Arizona Revised Statutes, the Arizona  
23      state parks board may spend up to \$692,100 from the Arizona state parks board  
24      portion of the off-highway vehicle fund in fiscal years 2005-2006 and  
25      2006-2007 for parks board operating expenses.

26      Sec. 7. State parks enhancement fund; use

27      Notwithstanding section 41-511.11, Arizona Revised Statutes, or any  
28      other law, all monies, except those necessary for the lease-purchase payments  
29      for the Tonto Natural Bridge State Park, are available for the operating of  
30      state parks in fiscal years 2005-2006 and 2006-2007 as appropriated by the  
31      legislature in the general appropriations act.

32      Sec. 8. Arizona water protection fund; use

33      Notwithstanding section 45-2112, subsection B, Arizona Revised  
34      Statutes, the annual appropriation from the state general fund to the Arizona  
35      water protection fund for fiscal year 2005-2006 shall be as specified in the  
36      general appropriations act.

37      Sec. 9. In lieu fees; deposit

38      A. Notwithstanding sections 49-543 and 49-551, Arizona Revised  
39      Statutes, or any other law, the first \$10,000,000 in revenues received from  
40      in lieu fees pursuant to section 49-543, subsection B, paragraph 2, Arizona  
41      Revised Statutes, shall be deposited in the state general fund in fiscal year  
42      2005-2006.



B. Notwithstanding sections 49-543 and 49-551, Arizona Revised Statutes, or any other law, \$500,000 of in lieu fee revenues received in excess of \$10,000,000 shall be deposited in the air quality fund in fiscal year 2005-2006. Monies deposited in the air quality fund pursuant to this subsection shall be appropriated to the department of environmental quality in fiscal year 2005-2006 for operating costs.

C. Notwithstanding sections 49-543 and 49-551, Arizona Revised Statutes, or any other law, in lieu fee revenues received in excess of \$10,500,000 shall be deposited in the air quality fund in fiscal year 2005-2006. Monies deposited in the air quality fund pursuant to this subsection shall be appropriated to the department of environmental quality in fiscal year 2005-2006 for grants to school districts to purchase new school buses. The grants shall not exceed the incremental cost difference between conventional diesel fuel school buses, excluding taxes, and new buses that are fueled by compressed natural gas. Monies appropriated pursuant to this subsection that are unencumbered or unexpended on June 30, 2008 shall revert to the state general fund.

Sec. 10. WQARF transfer from corporate income tax; suspension

Notwithstanding section 49-282, subsection B, Arizona Revised Statutes, or any other law, the state treasurer shall transfer only \$11,000,000 from the corporate income tax collected pursuant to title 43, chapter 11, article 2, Arizona Revised Statutes, to the water quality assurance revolving fund in fiscal year 2005-2006. These monies are in addition to revenues from sources specified in section 49-282, subsection A, paragraphs 2 through 11 and 13, Arizona Revised Statutes. No monies from the transaction privilege and severance tax clearing account established pursuant to section 42-5029, subsection D, paragraph 4, Arizona Revised Statutes, shall be deposited in the water quality assurance revolving fund in fiscal year 2005-2006.

Sec. 11. Effective date

Sections 49-542.05, 49-543 and 49-551, Arizona Revised Statutes, as amended by this act, are effective from and after June 30, 2006.

## **IPAG Comments RE March 16, 2005 AWBA Agenda Items**

### **V. Discussion and Potential Action Regarding 2005 Annual Plan of Operation**

- **Discussion regarding inclusion of interstate water banking and GSF partner cost share decrease**

*IPAG believes that pricing can be an appropriate tool for achieving the AWBA's policy objectives, and supports the proposal to decrease the GSF partner cost-share in recognition of this year's unique operational issues.*

- **Potential approval of amended 2005 Annual Plan of Operation**

*IPAG reaffirms its previous 2005 storage priority recommendations for the Tucson AMA, and supports the use of interstate water to fully utilize any additional available recharge capacity.*

*IPAG also believes that AWBA staff may need additional operational flexibility to meet the AWBA's annual objectives in light of fluctuating circumstance. IPAG encourages the Authority Commissioners to consider developing general policy guidance for storage decisions that staff can then use to adjust to changing conditions during the year. This policy guidance could address a variety of issues, including: a range of projected CAP availability; utilization of State Demonstration Projects; and potential recovery options.*

### **VII. Interstate Water Banking**

- **Update on discussions regarding expenditure of funds obtained pursuant to the Amended Agreement for Interstate Water Banking**

*The IPAG strongly supports maintaining the integrity and intent of the interstate agreement with Nevada. IPAG supports ongoing efforts to protect the \$100 million, including potential repayment of expenditures by beneficiaries. IPAG members are particularly concerned that the funds may be swept without taking into account the large number of unmet water infrastructure needs in the Tucson AMA and rest of the three-county CAP service area. Examples include: mitigating subsidence to maintain canal capacity; increasing total canal capacity; extending the CAP to reach subcontractors in Green Valley; storage, treatment and delivery facilities for northwestern Tucson; recovery infrastructure; and pipelines to make the FICO & AVID GSFs operational.*